

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

C.R.P.(PD)No.209 of 2015 and
M.P.No.1 of 2015

A/M.Sri Madhu Mariammanswami Ettimadai Pudur,
Represented by its Hereditary Trustees
1.Natesa Goundar
2.Marimuthu

....Petitioners/Plaintiffs

Vs.

1.The State of Tamilnadu,
Represented by
The District Collector, Namakkal.

2.The Revenue Divisional Officer,
Tiruchengode, Tiruchengode Town.

3.The Tahsildar,
Tiruchengode,
Tiruchengode Town.

4.Lakshmi

A. Rasappan (Died)

5.Ponnuvel, Village Administrative Officer,
Seetharampalayam Group Village,
Tiruchengode Taluk, Namakkal District.

6.The Commissioner,
Tiruchengode Municipalaity,
Tiruchengode Town,
Namakkal District.

7.Arunnath

8.Rajeswari

...Respondents/Defendants

Prayer:

Civil Revision Petition filed under Article 227 of the
Constitution of India against fair and decreetal order in

I.A.No.20 of 2012 in O.S.No.50 of 2002 dated 03/07/2014 on the file of the Additional District Munsif Court, Tiruchengode.

For Petitioners/Plaintiffs : Mr.P.Valliappan

For Respondents/Defendants : No Appearance

ORDER

The present Civil Revision Petition is filed against the rejection of the petitioners application under Order 1 Rule 10 (2) seeking for recording the death of the 5th defendant.

2. Heard Mr.P.Valliappan, learned counsel appearing for the petitioners, though notice has been served on the respondents and their names were printed in the cause list on 20.08.2018, none appeared on their behalf and hence, the petition came to be listed today. Even today, there is no representation on behalf of the respondents 7 and 8 herein.

3. Earlier, when the petitioners had filed a memo to record the death of the 5th defendant, the learned Additional District Munsif, Tiruchengode, by order dated 22.10.2010 had rejected the said memo. Aggrieved against the same, the petitioners herein filed a revision in C.R.P.(PD).No.4562 of 2010 and by an order dated 06.09.2011, the petitioners were granted liberty to make out an appropriate application seeking for recording the death of the 5th defendant. It is in this background that the present impugned application in I.A.No.20 of 2012 came to be passed. It is needless to point out that the said application came to be filed on the strength of the liberty granted by this court in its order passed in C.R.P.(PD).No.4562 of 2010, dated 06.09.2011.

4. Order 1 Rule 10(2) of CPC also enables the petitioner to make out such an application. While that being so, there cannot be any justification on the part of the Court below to reject the petitioner's application on the ground that the petitioners earlier memo came to be rejected. While the law permits the petitioners to make out such an application and this court had also granted liberty to the petitioner herein to make out such an application, I do not find any justification by the Trial Court in rejecting the petitioner's request by the respondents.

5. In the light of the above observations, the fair and decreetal order in I.A.No.20 of 2012 in O.S.No.50 of 2002, dated 03.07.2014 passed by the learned Additional District Munsif Court, Tiruchengode is set aside. Consequently, the learned Additional District Munsif is called upon to take up the application in I.A.No.20 of 2012, in O.S.No.50 of 2002, dated 03.07.2014 and pass appropriate orders, in the light of the

above observations, within a period of two weeks from the date of receipt of a copy of this order.

6. With the above observations, the Civil Revision Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector, Namakkal.
 - 2.The Revenue Divisional Officer, Thiruchengode.
 - 3.The Tahsildar, Tiruchengode.
 - 4.Village Administrative Officer, Seetharampalayam Group Village, Tiruchengode Taluk, Namakkal District.
 - 5.The Commissioner, Tiruchengode Municipality, Namakkal District.
 - 6.The Section Officer, VR Section, High Court, Madras(2 copies)
- +1cc to Mr.P.Valliappan, Advocate sr.no.58550

सत्यमेव जयते

C.R.P. (PD) No.209 of 2015

br (co)
nr 25/09/2018

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